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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,176	08/07/2003	Ulrich Birnbaum	DT-6589	3754

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EXAMINER

CHAN, KO HUNG

ART UNIT PAPER NUMBER

3632

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/638,176

Applicant(s)

BIRNBAUM, ULRICH

Examiner

Korie H. Chan

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/24/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 5 are vague and indefinite in that it is not clear whether applicant is claiming the bracket element in combination with the system support, and mounting element. Claim 1, lines 4-5, "second member (3) oriented vertical to the first member (2)" is vague and indefinite since it appears that second member (3) extends horizontally relative to first member (2). Claim 2, line 1, "the support surface", and "the outer contour of the support surface" on lines 2-3, lack antecedent basis. Claim 5, line before last, "the elongated openings" lacks proper antecedent basis. Claim 6 is generally vague as it is not clear fabricated from "a round section" of what element. Claim 7, line 1, "the inner contour of the connection segment" lacks proper antecedent basis.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3632

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Larsen (US patent no. 6,598,270). Larsen discloses a bracket element (figure 4A) for fastening a mounting element (30, figure 3) to a system support (22 of an assembly system; the support (22, figure 3) is a profile section and has openings (not labeled, see holes along 22, in figure 3) in a predefined spacing on at least one outer wall (figure 3), the bracket element (figure 4A) has a first member (34) and a second member (33) that is oriented vertical to the first member, the first member (34) has at least one opening (35) for fastening the bracket element to the support (22) and the second member (33) has at least one elongated opening (36) for fastening the mounting element (30, figure 3) to the bracket element (32), wherein the first member (34) of the bracket element comprises an alignment means (bent portion at 32) for orienting the bracket element on the support (22) and wherein the elongated opening (36) in the second member (33) is arranged parallel to the alignment means (bent portion 32); wherein the outer contour of the support surface at least of the first member (34) of the bracket element is complementary to the outer contour of the support surface of the support; wherein the mounting element (30, figure 3) being introduced into the bracket element is at least a part of a conduit system; wherein the bracket element (figure 4A) is a punch/bend part.

Claims 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bailey (US patent no. 5,566,916). Bailey discloses a conduit fastening system for affixing a

Art Unit: 3632

pipe (13, figure 1) to a system support (45, figure 2) of an assembly system, wherein the support (45, 61) is a profile section and has openings (holes at 47, 57, 59) in a predefined spacing on at least one of the outer walls of the support, wherein the conduit system fastening system comprises at least two bracket elements (31 and 33) for the purpose of fastening at least one mounting element (21) to the support (45, 61), at least one mounting element (21) for fastening a conduit system to the bracket elements (31, 33), wherein the at least one mounting element (21) has a first member (25) and a second member (27) that is connected with the first member via a connection segment (23) and the first and second members (25 and 27) of the mounting element (21) have free ends (41, 43) with fastening means and the free ends can be passed through the elongated openings (figure 4) of the bracket elements; wherein the conduit system fastening fabricated from a round section; wherein the inner contour of the connection segment (23) of the mounting element (2a) is complementary to the outer contour of the conduit system (13, figure 3); wherein the fastening means comprise at the free ends of the first and second members of the mounting element (21) screw means (41, 43) for affixing the at least one mounting element (21) to the bracket elements (31, 33); wherein the mounting element is a round section of metal.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining cited prior art of record demonstrate mounting bracket and/or support arrangements.

Art Unit: 3632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
April 27, 2004